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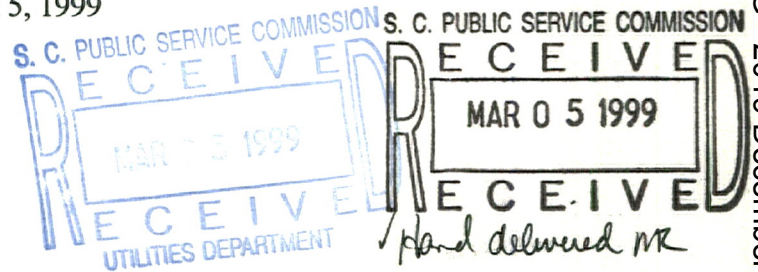
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March 5, 1999

Mr. Gary E. Walsh  
Executive Director  
South Carolina Public Service Commission  
Koger Center, Saluda Building  
101 Executive Center Drive  
Columbia, South Carolina 29210



**Re: Generic Proceeding to Address Voice Over the Internet  
(IP Telephony)  
Docket No. 98-651-C**

Dear Mr. Walsh:

Please find enclosed for filing on behalf of the South Carolina Telephone Coalition an original and ten (10) copies of a Return to SECCA Motion in the above-referenced docket. By copy of this letter, I am serving all parties of record.

Please clock in a copy and return with it our courier.

Thank you for your assistance.

Very truly yours,

Margaret M. Fox

MMF/mdb  
Enclosures

cc: Parties of record

ACCEPTED FOR PROCESSING - 2019 December 5 8:56 AM - SCPSC - 1998-651-C - Page 1 of 7

ACCEPTED  
Legal 203 3-5 99

POSTED  
MR 3-9-98

BEFORE  
THE PUBLIC SERVICE COMMISSION  
OF SOUTH CAROLINA

S. C. PUBLIC SERVICE COMMISSION  
RECEIVED  
MAR 05 1999  
RECEIVED

Docket No. 98-651-C

IN RE:           Generic Proceeding to Address           )  
                  Voice Over the Internet                )  
                  (IP Telephony)                         )  
\_\_\_\_\_

RETURN TO  
SECCA  
MOTION

S. C. PUBLIC SERVICE COMMISSION  
RECEIVED  
MAR 05 1999  
RECEIVED  
UTILITIES DEPARTMENT

The South Carolina Telephone Coalition ("SCTC") respectfully submits this Return to the Motion to Forebear from Decision or for Rescheduling Order, filed by the Southeastern Competitive Carriers Association ("SECCA"). By its motion, SECCA requests that the South Carolina Public Service Commission ("Commission") forbear from any policy decision concerning appropriate compensation for the use of local networks by Internet Protocol ("IP") telephony until the Federal Communications Commission ("FCC") has made a determination regarding the issue or until it is clear that the technology and use of IP telephony have developed to the point where sufficient information exists for a policy decision to be made by the Commission consistently with national Internet policy.

The SCTC disagrees with many of the assertions made by SECCA in its motion. Throughout the motion, SECCA refers to "the Internet" and "Internet service providers (ISPs)" in a very generic sense in an attempt to blur the distinction between information services and actual phone-to-phone telecommunications service. This generic docket, in fact, deals only with the very

limited and specific service of phone-to-phone telecommunications utilizing Internet protocol. Any general pronouncements by the FCC or any other entity regarding the Internet, ISPs, or information services in general is simply not relevant here.

That having been said, the SCTC does not necessarily disagree with SECCA's position that a generic hearing on IP telephony issues may not be necessary at this time. It is the SCTC's position that phone-to-phone IP telephony is a telecommunications service, and that providers of this service *are* subject to regulation by this Commission and subject to access charges. The SCTC believes that this position is clearly supported by applicable law. SECCA asserts that IP telephony represents a very small piece of the global communications market at present. SECCA states that how many, if any, South Carolinians are presently using IP telephony is a matter of speculation. SECCA Motion at p. 6. Assuming this is true, it may be premature for the Commission to address generic issues relating to this technology.

Regardless, the SCTC notes that South Carolina law clearly provides that IP telephony providers are telephone utilities subject to this Commission's jurisdiction. See S.C. Code Ann. § 58-9-10(6) ("The term 'telephone utility' includes persons and corporations . . . owning or operating in this State equipment or facilities for the transmission of intelligence by telephone for hire, including all things incident thereto and related to the operation of telephones.") Furthermore, the Commission's exercise of regulatory authority over IP telephony providers is not inconsistent with federal law on this subject. In fact, the FCC has purposely refrained from making a definitive pronouncement in this area, but has stated that IP telephony bears the characteristics of a telecommunications service rather than an information service.

The FCC defines "phone-to-phone IP telephony," as services in which the provider: (1) holds itself out as providing voice telephony or facsimile transmission service; (2) does not require the customer to use CPE different from that CPE necessary to place an ordinary touch-tone call; (3) allows the customer to call telephone numbers assigned in accordance with the North American numbering Plan; and (4) transmits customer information without net change in form or content. See FCC's Report to Congress in CC Docket No. 96-45 (April 10, 1998) ("Universal Service Report to Congress"), at para. IV.D.3.CJ.

In its Universal Service Report to Congress, the FCC expressed concern about phone-to-phone IP telephony. While the FCC stopped short of making a definitive pronouncement on IP telephony absent a more complete record focused on individual service offerings [see para. IV.D.3.CE], the FCC concluded:

[U]sers of certain forms of phone-to-phone IP telephony appear to pay fees for the sole purpose of obtaining transmission of information without change in form or content. Indeed, from the end-use perspective, these types of phone-to-phone IP telephony service providers seem virtually identical to traditional circuit-switched carriers. The record before us suggests that these services lack the characteristics that would render them "information services" within the meaning of the statute, and instead bear the characteristics of "telecommunications services." With respect to the provision of pure transmission capacity to Internet service providers or Internet backbone providers, we have concluded that such provision is telecommunications.

Universal Service Report to Congress at para. IV.D.4.CW.

Hence, the Commission should regulate these providers, as required by state law. There is no contrary definitive pronouncement from the FCC. The Commission already has this authority and obligation, and a generic hearing is not needed to address this particular issue. Other issues

involving use of IP telephony may be addressed as they arise, or at such time as the technology is sufficiently developed and available so that generic issues relating to the technology are ripe for consideration.

As a final note, the SCTC points out that this generic hearing was established in response to a request by VoiceMagic, Inc. and VoiceMagic Telecommunications, Inc., neither of which is a party of record in this proceeding.

WHEREFORE, the SCTC respectfully submits that, under current law, IP telephony providers are telephone utilities subject to regulation by the Commission and subject to access charges. Therefore, the SCTC does not believe a generic hearing is necessary, as state law is clear on this issue. Furthermore, the SCTC agrees that other issues relating to this relatively new technology may be addressed as they arise.

Respectfully Submitted,



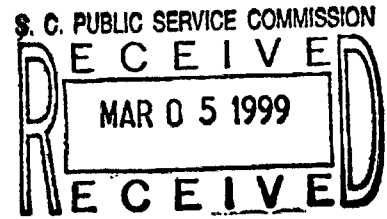
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Attorneys for the South Carolina  
Telephone Coalition

March 5, 1999  
Columbia, South Carolina

BEFORE  
THE PUBLIC SERVICE COMMISSION  
OF  
SOUTH CAROLINA

Docket No. 98-651-C



In Re: Generic Proceeding to Address Voice Over )  
The Internet (IP Telephony) )  
\_\_\_\_\_ )

**CERTIFICATE OF SERVICE**

I, Mia DuRant Briggs, do hereby certify that this day I caused to have served the foregoing Return to SECCA Motion to the below named party of record, by having same delivered as indicated, this 5th day of March, 1999, and addressed as follows:

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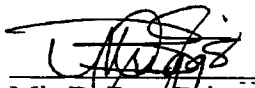
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